

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O.Box 39 • Odonah, Wisconsin 54861

Resolution No. 07-03-19-141

Authorization of Conditional Clean Water Act Section 401 Certification for the National Pollutant Discharge Elimination System (NPDES) Individual Permits for the Bad River Wastewater Treatment Lagoons

WHEREAS, the Bad River Band of Lake Superior Tribe of Chippewa Indians is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. Sec. 476; and

WHEREAS, Article VI, Section 1(a) of the Constitution authorizes the Tribal Council to negotiate with Federal, State, and local government on behalf of the Band; and

WHEREAS, Article VI, Section 1(n) of the Constitution directs the Tribal Council to encourage and foster the arts, crafts, traditions, culture, wildlife, and natural resources of the Band, which necessarily includes enhancement and protection of the water resources within the boundaries of the Reservation; and

WHEREAS, there is a need for the Tribe to protect the health and welfare of its members, maintain its political integrity and the economic security of the Tribe and its present and future members; and

WHEREAS, the water resources of the Tribe are integral to its members' health, welfare and economic security, as well as the economic and political integrity of the Tribe itself; and

WHEREAS, the Band obtained treatment in a manner similar to a state for Clean Water Act Sections 303 and 401 program authority from the U.S. Environmental Protection Agency on June 26, 2009;

WHEREAS, the Band has taken all steps required under Tribal Law and federal law to grant conditional 401 certifications for the NPDES Individual Permits for the Bad River Wastewater Treatment Lagoons;

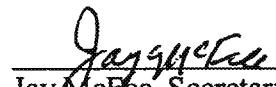
WHEREAS, the Band, after consultation with the Band's Natural Resources Department, finds that conditional certifications of the NPDES Individual Permits are necessary to protect (a) the health and welfare of the Band, its members, and others living on its Reservation, and (b) the present and future use of Reservation waters for propagation of fish and aquatic life and wildlife, cultural, and other legitimate uses;

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby approves the 401 certifications with the conditions attached hereto as Exhibit "B" and "C" for the Individual NPDES Permits for Municipal Wastewater Treatment Lagoons.

AND BE IT FURTHER RESOLVED that the Tribal Council directs the Natural Resources Department to submit the conditional certification to the U.S. Environmental Protection Agency.

Certification

I, the undersigned, as Secretary of the Bad River Band of Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of seven members, of whom 6 members, constituting a quorum, were present at a meeting hereof duly called, noticed, convened, and held on the 3rd day of July, 2019; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 5 members; 0 against; and 0 abstaining, and that the said resolution has not been rescinded or amended.



Jay McFee, Secretary
Bad River Tribal Council

Exhibit B: Conditional Certification – Diaperville Stabilization Lagoon

Clean Water Act Section 401 Certification for an Individual National Pollutant Discharge Elimination System Permit for Municipal Wastewater Discharge: Diaperville Lagoon

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. 1251 *et seq.*), the U.S. Environmental Protection Agency (EPA) is re-issuing an individual National Pollutant Discharge Elimination System (NPDES) permit to discharge municipal wastewater from an existing treatment system, the Diaperville Stabilization Lagoon). Additional information is available in the Bad River Natural Resources Department.

In accordance with Section 401 of the Clean Water Act, the Bad River Band of Lake Superior Tribe of Chippewa Indians (hereafter, the Tribe) has examined the application of the individual NPDES permit and determined that there is reasonable assurance—with the conditions listed below—that the activities associated with this permit will be consistent with relevant water quality considerations.

The Tribe has determined, however, that certain conditions are necessary to protect (a) the public health and welfare of the Tribe, its members, and others living on its Reservation, and (b) the present and future use of Reservation waters for cultural purposes, propagation of fish and aquatic life and wildlife, and other legitimate uses. Accordingly, the Tribe is granting CWA 401 certification for this individual NPDES permit with the following conditions to apply to discharges made under this permit into Waters of the Bad River Reservation:

- 1) Only those activities specifically authorized by the individual NPDES permit are authorized by this Certification. This Certification does not authorize impacts to cultural properties, or historical sites, or properties that may be eligible for listing as such.^{a,b}
- 2) All activities which are eligible for coverage under this individual NPDES permit shall be implemented in such a manner that is consistent with the Tribe's Water Quality Standards (WQS).^a
- 3) The permittee shall sample and monitor the effluent for ammonia at the frequency proposed during the discharge by collecting the proposed sample type. The analytical method utilized shall be consistent with the Tribe's WQS (provision E.8.).^c
- 4) The permittee shall sample and monitor the influent and effluent for mercury at the frequency proposed by collecting the proposed sample type. The analytical method utilized shall be consistent with the method requirements contained in the Tribe's WQS (provision E.8.). The permittee shall continue to implement a Pollution Minimization Program as described in the NPDES permit.^d
- 5) The permittee shall sample and monitor the effluent for phosphorus at the frequency proposed during discharge by collecting the proposed sample type. The analytical

Exhibit B: Conditional Certification – Diaperville Stabilization Lagoon

method utilized shall be consistent with the method requirements contained in the Tribe's WQS (provision E.8.).^a

- 6) The permittee shall sample and monitor the effluent for sulfate at the frequency proposed during the discharge by collecting the proposed sample type. The analytical method utilized shall be consistent with the method requirements contained in the Tribe's WQS (provision E.8.). The permit may be re-opened and modified, if deemed necessary, to include effluent limits or conditions for sulfate if information generated indicate the presence of this pollutant in the discharge at levels exceeding the Tribe's WQS.^e
- 7) The permittee shall provide a copy of the Discharge Monitoring Report forms and Monthly Operation Report forms to the Bad River Tribe's Natural Resources Department, corresponding to the submittal of these forms to the EPA.^a The forms shall be submitted via email to wqs@badriver-nsn.gov or mail to the following address:
Bad River Tribe's Natural Resources Department
Attn: Water Resources Specialist
P.O. Box 39
Odanah, WI 54861
- 8) The permittee shall provide a copy of the status report associated with the Pollutant Minimization Program for Total Mercury to the Bad River Tribe's Natural Resources Department, corresponding to the submittal of this report to the EPA.^a This status report shall be submitted via email to wqs@badriver-nsn.gov or mail to the address listed in (7).
- 9) The permittee shall provide a copy of the Phosphorus Operational Evaluation report to the Bad River Tribe's Natural Resources Department, corresponding to the submittal of this document to the EPA.^a This document shall be submitted via email to wqs@badriver-nsn.gov or mail to the address listed in (7).
- 10) The permittee shall give notice to the Bad River Tribe's Natural Resources Department of any changes in sludge use and disposal activities, corresponding with the notice to the EPA.^a
- 11) The permittee shall notify the Bad River Tribe's Natural Resources Department of any noncompliance, including noncompliance which may endanger health or the environment.^a This notice shall correspond with the notice to the EPA. Written notice shall be submitted via email (wqs@badriver-nsn.gov) or mail to the address listed in (7).
- 12) The Tribe may modify, terminate, or revoke the CWA 401 Certification issued for this permit for cause including, but not limited to, a violation of the terms and conditions of this certification or information newly acquired by the Tribe indicating the discharge poses a threat to human health and welfare.^a

Exhibit B: Conditional Certification – Diaperville Stabilization Lagoon

Each condition of this Certification cannot be made less stringent without violating the requirements of tribal law.

Citation and Other Relevant Footnotes:

^a Bad River Band of Lake Superior Tribe of Chippewa Indians Water Quality Standards adopted by Resolution No. 7-6-11-441 (hereafter, Tribe's WQS).

^b 36 C.F.R. § 800.16(l)(2).

^c Tribe's WQS Provision H.10.

^d Tribe's WQS Provision H.4.

^e Tribe's WQS Provision E.6.ii.c.

Approved by the Tribal Council on 7/3/2019.

Exhibit C: Conditional Certification – Birch Hill Stabilization Lagoon

Clean Water Act Section 401 Certification for an Individual National Pollutant Discharge Elimination System Permit for Municipal Wastewater Discharge: Birch Hill Lagoon

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. 1251 *et seq.*), the U.S. Environmental Protection Agency (EPA) is re-issuing individual National Pollutant Discharge Elimination System (NPDES) permit to discharge municipal wastewater from an existing treatment system, the Birch Hill Stabilization Lagoon. Additional information is available in the Bad River Natural Resources Department.

In accordance with Section 401 of the Clean Water Act, the Bad River Band of Lake Superior Tribe of Chippewa Indians (hereafter, the Tribe) has examined the application of the individual NPDES permit and determined that there is reasonable assurance—with the conditions listed below—that the activities associated with this permit will be consistent with relevant water quality considerations.

The Tribe has determined, however, that certain conditions are necessary to protect (a) the public health and welfare of the Tribe, its members, and others living on its Reservation, and (b) the present and future use of Reservation waters for cultural purposes, propagation of fish and aquatic life and wildlife, and other legitimate uses. Accordingly, the Tribe is granting CWA 401 certification for this individual NPDES permit with the following conditions to apply to discharges made under this permit into Waters of the Bad River Reservation:

- 1) Only those activities specifically authorized by the individual NPDES permit are authorized by this Certification. This Certification does not authorize impacts to cultural properties, or historical sites, or properties that may be eligible for listing as such.^{a,b}
- 2) All activities which are eligible for coverage under this individual NPDES permit shall be implemented in such a manner that is consistent with the Tribe's Water Quality Standards (WQS).^a
- 3) The permittee shall sample and monitor the effluent for ammonia at the frequency proposed during the discharge by collecting the proposed sample type. The analytical method utilized shall be consistent with the Tribe's WQS (provision E.8.).^c
- 4) The permittee shall sample and monitor the influent and effluent for mercury at the frequency proposed by collecting the proposed sample type. The analytical method utilized shall be consistent with the method requirements contained in the Tribe's WQS (provision E.8.). The permittee shall continue to implement a Pollution Minimization Program as described in the NPDES permit.^d
- 5) The permittee shall sample and monitor the effluent for phosphorus at the frequency proposed during discharge by collecting the proposed sample type. The analytical

Exhibit C: Conditional Certification – Birch Hill Stabilization Lagoon

method utilized shall be consistent with the method requirements contained in the Tribe's WQS (provision E.8.).^a

- 6) The permittee shall sample and monitor the effluent for sulfate at the frequency proposed during the discharge by collecting the proposed sample type. The analytical method utilized shall be consistent with the method requirements contained in the Tribe's WQS (provision E.8.). The permit may be re-opened and modified, if deemed necessary, to include effluent limits or conditions for sulfate if information generated indicate the presence of this pollutant in the discharge at levels exceeding the Tribe's WQS.^e
- 7) The permittee shall provide a copy of the Discharge Monitoring Report forms and Monthly Operation Report forms to the Bad River Tribe's Natural Resources Department, corresponding to the submittal of these forms to the EPA.^a The forms shall be submitted via email to wqs@badriver-nsn.gov or mail to the following address:
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- 10) The permittee shall give notice to the Bad River Tribe's Natural Resources Department of any changes in sludge use and disposal activities, corresponding with the notice to the EPA.^a
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- 12) The Tribe may modify, terminate, or revoke the CWA 401 Certification issued for this permit for cause including, but not limited to, a violation of the terms and conditions of this certification or information newly acquired by the Tribe indicating the discharge poses a threat to human health and welfare.^a

Exhibit C: Conditional Certification – Birch Hill Stabilization Lagoon

Each condition of this Certification cannot be made less stringent without violating the requirements of tribal law.

Citation and Other Relevant Footnotes:

^a Bad River Band of Lake Superior Tribe of Chippewa Indians Water Quality Standards adopted by Resolution No. 7-6-11-441 (hereafter, Tribe's WQS).

^b 36 C.F.R. § 800.16(l)(2).

^c Tribe's WQS Provision H.10.

^d Tribe's WQS Provision H.4.

^e Tribe's WQS Provision E.6.ii.c.

Approved by Tribal Council on 7/3/2019.